

**UNITED STATES DISTRICT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

v.

EL SHAFEE ELSHEIKH,
Defendant.

Case No. 1:20-cr-00239-TSE

Honorable T. S. Ellis, III

Sentencing Date: August 19, 2022

**MEMORANDUM IN SUPPORT OF AGREED MOTION TO PARTIALLY
SEAL/REDACT DEFENDANT'S POSITION ON SENTENCING AND EXHIBITS**

El Shafee Elsheikh, by counsel, moves this Honorable Court, pursuant to Local Crim. R. 49 for entry of an Order permitting his Position on Sentencing, and accompanying exhibits, to be filed partially under seal. Partial sealing is necessary because both documents contain confidential information of the defendant, and confidential information covered by a Protective Order.

ARGUMENT

Defendant's Position on Sentencing and exhibits should be partially sealed because they contain confidential information that is covered by a Protective order, or is otherwise confidential, that the public has no right to see. It is true that judicial proceedings are generally open to the public and that there exists, while not a First Amendment right, a common-law right of public access to judicial records and documents. *Media Gen. Operations, Inc. v. Buchanan*, 417 F.3d 424, 429 (4th Cir. 2005) (citing *Balt. Sun Co. v. Goetz*, 886 F.2d 60, 64-65 (4th Cir. 1989)). The presumption of the right of access can be rebutted if countervailing interests heavily outweigh the public interests in access. *Virginia Dep't of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004). The party seeking to overcome the presumption bears the burden

of showing some significant interest that outweighs the presumption. *Id.* at 575. Ultimately the decision to seal is a matter best left to the sound discretion of the district court. *Washington Post*, 386 F.3d at 575.

Partial sealing/redaction is necessary to protect the confidential information contained in the memorandum and exhibits. Specifically, the Defendant's Position on Sentencing and exhibits both contain confidential information of the defendant, that the public has no right to see, and confidential information covered by a protective order. Further, the undersigned has conferred with counsel for the government and has been informed that there is no objection to the relief sought

CONCLUSION

WHEREFORE, Defendant respectfully requests that the Court enter the attached Order permitting the Defendant's Position on Sentencing, and accompanying exhibits, to be filed partially under seal

Respectfully Submitted,

EL SHAFEE ELSHEIKH,
By Counsel

_____/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of August 2022, I filed the foregoing pleading through the ECF system, which shall then send an electronic copy of this pleading to all parties in this action.

/s/
Zachary A. Deubler, Esq.